

AMENDED IN SENATE MAY 1, 2012  
AMENDED IN SENATE APRIL 17, 2012

**SENATE BILL**

**No. 1248**

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**Introduced by Senator Alquist**

February 23, 2012

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An act to amend Section 1219.5 of the Code of Civil Procedure, relating to court proceedings.

LEGISLATIVE COUNSEL'S DIGEST

SB 1248, as amended, Alquist. Civil procedure: contempt.

Existing law requires courts to refer minors under 16 years of age who refuse to testify in a court proceeding to a probation officer, as specified, and to receive a recommendation and report from that probation officer, before imposing a sanction for contempt, except as specified.

This bill would require the court to require a victim of a sex crime who is subject to the above requirements to meet with a victim advocate, as defined, *unless the court finds, for good cause, that it is not in the best interest of the victim*. The bill would also permit a court to impose sanctions, as specified, on any parent or guardian who the court finds is inappropriately interfering with court processes by encouraging the victim to refuse to testify. *The bill would specify that the imposition of the sanctions described above would not preclude prosecution under any other applicable provision of law.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1219.5 of the Code of Civil Procedure is amended to read:

1219.5. (a) Except as provided in subdivision (d), in any case in which a contempt consists of the refusal of a minor under 16 years of age to take the oath or to testify, before imposing any sanction for the contempt, the court shall first refer the matter to the probation officer in charge of matters coming before the juvenile court for a report and recommendation as to the appropriateness of the imposition of a sanction. The probation officer shall prepare and file the report and recommendation within the time directed by the court. In making the report and recommendation, the probation officer shall consider factors such as the maturity of the minor, the reasons for the minor's refusal to take the oath or to testify, the probability that available sanctions will affect the decision of the minor not to take the oath or not to testify, the potential impact on the minor of his or her testimony, the potential impact on the pending litigation of the minor's unavailability as a witness, and the appropriateness of the various available sanctions in the minor's case. The court shall consider the report and recommendation in imposing a sanction in the case.

(b) (1) A victim of a sex crime who is subject to subdivision (a) shall meet with a victim advocate, as defined in Section 679.04 of the Penal Code, *unless the court, for good cause, finds that it is not in the best interest of the victim.*

(2) If the court finds that a parent or guardian is inappropriately interfering with court processes by encouraging a minor described in paragraph (1) to refuse to testify, the parent or guardian may be sanctioned. The sanction may include counseling, a fine, or jail time. *Nothing in this section shall preclude prosecution under any other applicable provision of law.*

(c) In any case in which the court orders the minor to be placed outside of his or her home, the placement shall be in the least restrictive setting available. Except as provided in subdivision (e), the court shall not order the minor to be placed in a secure facility unless other placements have been made and the minor has fled the custody and control of the person under the control of whom he or she has been placed or has persistently refused to obey the

1 reasonable and proper orders or directions of the person under the  
2 control of whom he or she has been placed.

3 (d) The court may impose a sanction for contempt prior to  
4 receipt of the report and recommendation required by subdivision  
5 (a) if the court enters a finding, supported by specific facts stated  
6 on the record, that the minor would be likely to flee if released  
7 before the receipt of the report and recommendation.

8 (e) The court may order the minor placed in a secure facility  
9 without first attempting the nonsecure placement required by  
10 subdivision (c) if the court enters a finding, supported by specific  
11 facts stated on the record, that the minor would be likely to flee if  
12 released to nonsecure placement as a prerequisite to secure  
13 confinement.